

## PROCEEDINGS AGAINST DAVID N. KESSEL FOR CONTEMPT OF THE SENATE

FEBRUARY 8 (legislative day, JANUARY 29), 1951.—Ordered to be printed

Mr. KEFAUVER, from the Special Committee To Investigate Organized Crime in Interstate Commerce, submitted the following

### REPORT

[To accompany S. Res. 70]

The Special Committee To Investigate Organized Crime in Interstate Commerce, as created and authorized by the United States Senate by Senate Resolution 202, Eighty-first Congress, second session, caused to be issued a subpoena to David N. Kessel of Piedmont, Calif. The said subpoena directed David N. Kessel to be and appear before the said committee on November 21, 1950, at 2 p. m. in Room 246, Federal Post Office Building, Mission Street, San Francisco, Calif., then and there to testify touching matters of inquiry committed to said committee and not to depart without leave of said committee. The date of the subpoena was the 20th day of November, 1950. Attendance pursuant to said subpoena was had on November 21, 1950, at which time the witness appeared. The subpoena served upon said David N. Kessel is set forth as follows:

Received November 20, 1950, United States Marshal's Office, San Francisco, Calif. 1016.

UNITED STATES OF AMERICA

CONGRESS OF THE UNITED STATES

To DAVID KESSEL, 315 San Pablo Avenue, El Cerrito, Greeting:

Pursuant to lawful authority, you are hereby commanded to appear before the committee on Senate Committee To Investigate Organized Crime in Interstate Commerce of the Senate of the United States, on November 21, 1950, at 2 p. m., at their committee room 246 Federal Post Office Building, Mission Street, San Francisco, then and there to testify what you may know relative to the subject matters under consideration by said committee. Producing at that time all books, records, canceled checks, memoranda, and correspondence relating to any gambling, slot machine, or punchboard enterprises owned or conducted by you for the period 1945 to date.

Hereof fail not, as you will answer your default under the pains and penalties in such cases made and provided.

To United States marshal to serve and return.

Given under my hand, by order of the committee, this 20th day of November, in the year of our Lord one thousand nine hundred and fifty.

ESTES KEFAUVER,  
*Chairman, Senate Committee To Investigate  
Organized Crime in Interstate Commerce.*

The said subpoena was duly served as appears by the return made thereon by R. Calmes, deputy United States marshal, who was duly authorized to serve the said subpoena. The return of the service by the said R. Calmes, deputy United States marshal, being endorsed thereon is set forth as follows:

November 20, 1950.

I made service of the within subpoena by handing to and leaving with the within-named David Kessel, at the office of his attorney at 351 California Street, San Francisco, at 3:30 p. m., on the 20th day of November 1950.

EDWARD J. CARRIGAN,  
*United States Marshal.*  
By R. CALMES, Deputy.

The said David N. Kessel pursuant to said subpoena and in compliance therewith appeared before the said committee to give such testimony as required by virtue of Senate Resolution 202, Eighty-first Congress, second session. David Kessel having appeared as a witness and having been asked questions, which questions were pertinent to the subject matter under inquiry, made answers as appeared in the record of the hearing on November 21, 1950, at San Francisco, Calif., which record is annexed hereto and made a part hereof and designated annex I.

As a result of said David Kessel's refusal to answer the questions pursuant to the said inquiry, as appears in the record annexed, consisting of pertinent excerpts from the testimony of that day, the committee was prevented from receiving testimony and evidence concerning the matter committed to said committee in accordance with the terms of the subpoena served upon this witness.

The committee was therefore deprived of answers to questions pursuant to the committee's inquiry propounded to David Kessel pertinent to the subject matter which under Senate Resolution 202, Eighty-first Congress, second session, the said committee was instructed to investigate, and the refusal of the witness to answer questions as set forth in annex I, is a violation of the subpoena under which the witness was directed to appear and answer pertinent questions to the subject under inquiry, and his persistent and illegal refusal to answer the aforesaid questions deprived the committee of necessary and pertinent testimony and places this witness in contempt of the United States Senate.

At the committee hearing in San Francisco, Calif., on November 21, 1950, there was present a quorum of the committee, as set forth in the record annexed, consisting of the chairman, Senator Kefauver, and Senators Tobey and Wiley.

After reviewing the testimony and other facts as set forth herein, the committee adopted a resolution, as set forth below:

SPECIAL COMMITTEE TO INVESTIGATE ORGANIZED CRIME IN INTERSTATE  
COMMERCE

MINUTES OF A COMMITTEE MEETING, JANUARY 5, 1951

The committee met at 11:30 a. m. in room 457 of the Senate Office Building. There were present the chairman and Senators Tobey and Wiley.

The chairman presented to the committee the minutes of said subcommittee meetings on November 21, 1950, held in room 246, Federal Post Office Building, Mission Street, San Francisco, Calif.

The chairman stated to the committee that the witness, David Kessel, repeatedly, consistently, and arbitrarily had refused to answer questions put to him throughout the chairman's examination of said witness on November 21, 1950, and that his refusal therefore was improper and contemptuous.

The chairman presented to the committee a draft report on the entire matter for the committee's consideration and the committee duly adopted the said report and instructed the chairman to present said report to the United States Senate.

Therefore, upon motion of Senator Tobey, duly seconded by Senator Wiley, it was duly resolved that the committee present to the United States Senate, for its immediate action, a resolution requiring the United States attorney for the northern district of California to proceed against the said David N. Kessel in the manner and form provided by law.

ESTES KEFAUVER, *Chairman.*

ANNEX I

INVESTIGATION OF ORGANIZED CRIME IN INTERSTATE  
COMMERCE

UNITED STATES SENATE,  
SPECIAL COMMITTEE TO INVESTIGATE ORGANIZED CRIME

IN INTERSTATE COMMERCE,

*San Francisco, Calif., Tuesday, November 21, 1950.*

REPORTER'S TRANSCRIPT

The committee met, pursuant to call, in room 246, Federal Post Office Building, Mission Street, San Francisco, Calif., Senator Estes Kefauver (chairman of the committee) presiding.

Present: Senators Kefauver, Tobey, and Wiley.

Also present: Rudolph Halley, chief counsel, and Harold G. Robinson, chief investigator.

The CHAIRMAN. The committee will be in order.

(David N. Kessel, a witness called, being first duly sworn, testified as follows:)

Senator KEFAUVER. All right, gentlemen, let's get going.

Mr. FAULKNER. Mr. Chairman, I spoke to Mr. Robinson—I know this is a closed hearing and I inquired whether we would receive a copy of the testimony of these two witnesses.

Mr. HALLEY. You may purchase a copy from the stenographer.

Mr. FAULKNER. Pardon me?

Mr. HALLEY. You may purchase a copy from the stenographer on the specific order that it is for the confidential use of the witnesses and their counsel only in connection with the witnesses' own interests and not in any other connection.

Mr. FAULKNER. That is right. I understood that in advance of the hearing.

Senator KEFAUVER. You know the reporter and you can—Will you see that Mr. Faulkner has an opportunity to get a copy of Mr. Kessel's testimony [indicating to the reporter].

Mr. FAULKNER. Thank you.

Mr. HALLEY. Mr. Kessel, what is your full name?

Mr. KESSEL. David N. Kessel.

Mr. HALLEY. And what is your address?

Mr. KESSEL. 283 St. James Drive, Piedmont, Calif.

Senator KEFAUVER. What city?

Mr. KESSEL. Piedmont.

Mr. FAULKNER. P-i-e-d-m-o-n-t.

Mr. HALLEY. What is your business, Mr. Kessel?

Mr. KESSEL. I am appearing involuntarily under the compulsion of the——

Mr. HALLEY. Pardon me a moment. Are you reading from a prepared statement?

Mr. KESSEL. This is my own statement; this is my own statement.

Senator KEFAUVER. How long is that statement?

Mr. HALLEY. Have you notes; you have typewritten notes?

Mr. KESSEL. Well, I can read, and I am trying to help myself so I can—that is, try to—stand on my constitutional rights; and I prepared this piece of paper myself——

Mr. HALLEY. Is that a paper you have prepared by yourself and with no assistance?

Mr. KESSEL. I prepared this paper all by myself.

Mr. HALLEY. Your counsel weren't with you when you prepared it?

Mr. KESSEL. I showed it to my counsel.

Mr. HALLEY. You had no assistance from him in preparing it?

Mr. KESSEL. I had it typewritten; that is all. I can't typewrite.

Senator KEFAUVER. What is this paper about, Mr. Kessel?

Mr. KESSEL. Well, I will read it to you, Senator.

Mr. FAULKNER. It is the form of his objection to being asked questions.

Mr. HALLEY. You go ahead and read then.

Senator KEFAUVER. Let us see how long it is. Is it seven or eight pages?

Mr. FAULKNER. It is not.

Mr. HALLEY. May we see the whole thing? It might save a lot of time. Would you just hand it up?

Mr. FAULKNER. I think the witness is entitled to keep his own paper, but I will show you what it is. I have no objection to showing it to you, counsel.

Senator KEFAUVER. Just want to see how long it is; see if we can expedite it. Let him read it; go ahead.

Mr. KESSEL. I am appearing involuntarily and under the compulsion of a subpoena served upon me by the committee. Under the circumstances surrounding my being subpoenaed as a witness before this committee, I decline to answer the questions on the ground that my answer may incriminate me or may have the tendency to incriminate me. And, with respect to the committee, I will continue to take that position in respect to any interrogation of me which will have that tendency.

The resolution which created this committee contains very broad powers, including which is the power to inquire into the subject of whether or not various persons are violating either the State or Federal laws respecting various subjects, matters concerning which you are inquiring.

Before appearing before your committee we read of the highly publicized activity of this committee, and particularly we call the committee's attention to the fact that continuously since as early as November 16 the work of the committee has been the subject matter of extensive newspaper articles and very substantial headlines and all in the local daily papers. At the same time, there has been a highly publicized report of the California Crime Commission and statements attributed to its members. It would interfere with the orderly proceedings of this committee to attempt to read into this record all of this publicity.

Reference is made briefly to part of it. I think the committee will agree that one of the main burdens of all this publicity is the question of whether various people who are witnesses or potential witnesses before this committee have subjected themselves to penalties, forfeitures, or criminal prosecutions in respect to the tax laws of the United States and other laws of the United States.

I would like to call the committee's attention particularly to an article in the San Francisco News, under the Los Angeles date line of November 17, entitled "Kefauver Commission will check San Francisco figures tax returns." I would like this particular article to be made a part of the record, if I may be permitted to do it, without reading it at length.

Senator KEFAUVER. It will be made a part of the record. Let it be called "Exhibit 1."

Mr. HALLEY. May I interrupt just a moment. Is it your sworn testimony that you personally dictated that statement?

Mr. FAULKNER. He didn't testify to that; he had another paper there. We object to the question.

Mr. HALLEY. Please let the witness answer the question.

Mr. FAULKNER. He is entitled to make this objection before the committee.

Mr. HALLEY. I think you are trying to lead the witness, and he is between two lawyers, and——



Mr. FAULKNER. I will object—

Mr. HALLEY. No; please let me finish, sir. I find him hemmed in between two lawyers, and I find you are attempting to lead him. If you have an objection, I am going to ask you to state the objection to the Chair. I will state the question again, and you may object if you desire.

Senator KEFAUVER. That is an orderly way to do it, Mr. Counsel, ask questions and—counsel is a good lawyer and we have worked together for quite a while. I think the committee and he endeavors, we think, to ask proper questions. If you have an objection to any question, direct your objection to the Chair, and I will rule.

Mr. FAULKNER. I do suggest that the witness is trying to make a statement in an orderly manner as to the grounds upon which he declines to answer the question. I think that he is entitled to finish his statement. When he has finished his statement or has finished his objection, he can be cross-examined on the question and the question that counsel wants to ask him.

Senator KEFAUVER. The question was whether he had prepared the document he is reading by himself or whether lawyers had prepared it for him. I think that is a proper question.

Mr. FAULKNER. Well, I would object.

Senator TOBEY. Didn't he testify he did? Did I understand you did prepare this yourself?

Mr. KESSEL. I prepared this paper, piece of paper, by myself and I showed it to my counsel.

Senator TOBEY. In other words, you prepared the text out of your own mind. After having completed it, you showed it to your counsel?

Mr. KESSEL. Yes.

Senator TOBEY. Make any changes in it?

Mr. KESSEL. No changes.

Senator TOBEY. So this that you have been reading to us is your own free will and is your own composition?

Mr. KESSEL. My own piece of paper.

Senator TOBEY. You own the paper, but did you write that yourself?

Mr. KESSEL. I couldn't type it myself.

Senator TOBEY. Did you dictate it?

Mr. KESSEL. I wrote it and then I showed it to my counsel, and he thought it was the proper thing for me to have.

Senator KEFAUVER. All right, let us go ahead. Read what you have and then we will—

Mr. KESSEL. I will start over again.

Mr. FAULKNER. Don't start over.

Senator KEFAUVER. Start where you left off. You made something a part of the record.

Mr. KESSEL. I would like this particular article to be made part of the record, if I am permitted to do it, without reading at length.

Senator KEFAUVER. Exhibit 1 to his testimony.

(Exhibit 1, above referred to, appears as follows:)

"LOS ANGELES, November 17.—A unique power granted to the Kefauver Senate Rackets Investigating Committee by President Truman will be employed against Bay area underworld figures called before the group when it opens a San Francisco hearing tomorrow, the San Francisco News learned today.

"This power is the right to examine otherwise super-private, secret Federal income-tax returns.

"Among those whose reports to the Government are slated for scrutiny are Elmer (Bones) Remmer, William N. Pechart, David N. Kessel, Emilio (Gombo) Georgetti, Inez Burns, Sam Termini, alias Sam Murray, and others.

"(Subpenas for the San Francisco hearing were served on Pechart and Kessel, East Bay gambling czars; Tom Kyne, betting commissioner, and Lou Wolcher, coin-machine distributor. There's a subpoena for Remmer, if he can be found, and one for Syd Wolfe, bar operator. United States marshals said they knew of a Sydney Wolf, but couldn't find any Syd Wolfe.)

"Inspectors Frank Ahern and Tom Cahill of the police homicide squad will meet tomorrow to 'discuss matters of mutual interest' with Harold G. Robinson, chief investigator of the Senate committee; Mr. Robinson wired a request for the get-together.

"Object of the examination will be to determine the profits of gambling and other illegal ventures—and also to weigh the veracity of California Crime Commission charges that Uncle Sam is being cheated out of income taxes.

"While the data from income-tax returns will not be disclosed in public hearings, they may be included by the Kefauver committee in its final report to the Senate.

"The committee declined to identify all of the witnesses subpoenaed to appear at the Seventh Street post office for tomorrow's hearing, stating that deputy United States marshals had been having some difficulty locating all of the individuals wanted.

"Among those scheduled for questioning are Federal Bureau of Internal Revenue officials accused by the crime commission of showing favoritism to notorious characters and with participating in extracurricular activities which could conflict with their responsibility to maintain official impartiality.

"These same accusations are slated for airing before the Federal grand jury in Los Angeles today. Because most of the reported offenses occurred in the northern California district, United States Attorney General J. Howard McGrath directed that transcripts of such testimony be sent to United States Attorney Frank Hennessy, of San Francisco, for possible presentation to a northern jury.

"The San Francisco Federal grand jury, if it chose, could return indictments on the basis of such transcripts, or else call in witnesses to amplify any or all of the testimony.

"Guarantee Finance Co., the San Francisco News learned today, settled back income-tax claims by voluntary payment of \$350,000 to the Federal Government."

Mr. KESSEL. It would appear from the article that the committee attempts to use power to go into the subject matter of income tax and income-tax returns, and in this article my name is mentioned. And in the Oakland Tribune on Friday, November 17, which was on the subject of witnesses facing the committee, and the subject of taxes was given wide publicity. Again, to expedite the hearing of the committee I would like the article in the Oakland Tribune to be made part of my statement without reading it into the record. You will observe that the names—

Senator KEFAUVER. That will be exhibit 2.

(Exhibit 2, above referred to, reads as follows:)

"Pechart, Kessel subpoenaed; Mickey Cohen talks today."

"Probers call six bay men."

"William Pechart and David Kessel, Contra Costa County gambling bosses, were under orders today to appear before the United States Senate Crime Investigating Committee when it opens a 2-day hearing in San Francisco tomorrow.

"They and three other bay area figures have been subpoenaed by United States Marshal Edward J. Carrigan.

"He named the others as Tom Kyne, San Francisco betting commissioner; Lou Wolcher, reputed pin-ball king, and Syd Wolfe, big-time tavern operator.

"'Bones' Remmer called.

"A sixth subpoena has been issued for Elmer (Bones) Remmer, San Francisco, Contra Costa County and Nevada gambler, but he has not yet been located, Carrigan said. Emilio Georgetti, San Mateo County gambler, who is alleged by the crime commission to have handled \$700,000 in cashiers' checks in 1 year, had already been ordered to appear in San Francisco.

"The Senate Committee, headed by Senator Estes Kefauver (Democrat, Tennessee) is scheduled to meet in the courtroom of Judge George B. Harris in the Federal Building in San Francisco tomorrow. Originally planned as a 1-day affair, the committee is now expected to continue over to Monday as the Senate investigators dig into California Crime Commission charges of widespread tax evasions by racketeers, assertedly aided by Federal Revenue Bureau agents.

"Warren Olmeyer III, chief counsel for the crime commission and the man who wrote the sizzling report it issued Tuesday, was slated to appear today before a Federal grand jury in Los Angeles. \* \* \*

"\* \* \* Substantial expenses.

"Senator Kefauver disclosed details last night after spending most of the afternoon talking to Harry Sackman, bookkeeper for Cohen and other Hollywood underworld figures.

"Kefauver said Cohen's income since 1947 hasn't been 'very substantial but his expenses, as most know, have been most substantial.'

"As a result the Tennesseean said, Cohen 'borrowed' more than \$100,000 in 1947, \$50,000 in 1948, and as much in 1949, and so far this year has borrowed \$60,000.

"Little paid back.

"The Senator said Cohen apparently borrowed the money to balance his books for net income purposes. The novel feature of the financing, according to the committee, is that Cohen paid very little, if any, of the sums back.

"Senator Kefauver said he could not divulge the names of the lenders. Presumably the Senator wants Cohen to do that publicly today.

"Kefauver was asked if Cohen would face a congressional contempt charge should he refuse to testify. The Senator replied that problem will be handled when and if it arises. He said there have been no reluctant witnesses thus far in the western phase of the hearings. \* \* \*

Mr. KESSEL. You will observe that the names of Mr. Pechart and Mr. Kessel appear very prominently in the headlines of this issue of the Oakland Tribune.

Further, the subject matter of income tax of another witness heretofore examined as a subject of comment by the chairman of the committee in the Call Bulletin, a San Francisco newspaper, on Friday, November 17, 1950, a matter highly publicized, is the claim that the "income-tax evasion by gamblers and racketeers as well as tie-ups between Federal agents and underworld characters, indicates the situation is widespread.

"There is no question of the need for a Nation-wide congressional investigation of the Internal Revenue Bureau's operations."

In the same issue of the same paper there is a headline: "Hint crime tax sensation due."

In the morning paper, the San Francisco Chronicle of November 17, 1950, emblazoned headlines appearing on the first page: "Senators checking bookies' tax deal."

The articles referred to this committee.

In the San Francisco Examiner of November 17, in an article relating to hearings conducted by this committee, after outlining certain developments at the hearing relating to finance and tax matters and other things, the chairman of this committee is quoted as follows:

"Anything we find interesting," Kefauver declared, "we'll turn over to the Bureau of Internal Revenue, because we cooperate with the Bureau of Internal Revenue."

We wish further to call the committee's attention to the fact in the San Francisco News of November 18, 1950, that is indicating that the transcript of the testimony given before the committee by one of the witnesses will be carefully studied by prosecuting attorneys.

It further appears in the same article that the Treasury agents were checking his highly explosive witness-stand statements to strengthen their impending income-tax-evasion facts.

Under the circumstances, therefore, it is apparent that one of the purposes of the committee's hearing is and very well could be means by which information obtained from witnesses as highly publicized as are Mr. Pechart and Mr. Kessel may be used in an effort to inflict upon them penalties and threats of criminal prosecution, claims to have occurred with respect to the laws of the United States, that it is required of me, as a witness, that I, a layman, vigilant in protecting my own constitutional rights, any position I take myself or through my counsel is taken with full respect to the committee without any desire whatever to be in contempt of its power or authority, but only for the purpose of preserving to me the rights guaranteed to me under the Constitution of the United States.

I am leaving with the committee a copy of the San Francisco News of November 17, 1950, pages 1 to 12 thereof; a copy of the Oakland Tribune of November 17, 1950, pages 1 to 16 thereof; a copy of the Call Bulletin of November 17, 1950, the first and second pages, page B and pages 1 to 14, inclusive; a copy of the San Francisco Chronicle of November 17, 1950, pages 1 to 14, inclusive, a copy of the San Francisco Examiner of November 17, 1950, pages 1 and 2, 19 and 20; a copy of the San Francisco News of November 18, 1950, pages 1, 2, 3, 4, 7, 8, 9, and 10.

Mr. HALLEY. Now, with reference to the documents you have just finished reading—

Senator KEFAUVER. All right, let the papers be filed as exhibits—let the group of them be filed as exhibit 3. Fasten them all together.

Mr. HALLEY. With reference to the documents you just finished reading, is it your testimony that you personally prepared those documents, that is, the contents of them?

Mr. KESSEL. When I prepared them I showed them to my attorney, and he said it will be all right.

Mr. HALLEY. How did you prepare them, from scrap paper?

Mr. KESSEL. I had some old paper.

Mr. HALLEY. Did you write them out in pencil or in ink?



Mr. KESSEL. I had a pencil.

Mr. HALLEY. Where did you write them out, at home?

Mr. KESSEL. At home as I went along with this.

Mr. HALLEY. Then you brought the papers to your attorney's office, is that right?

Mr. KESSEL. I can't typewrite myself so I had him——

Mr. HALLEY. Your attorney gave them to a young lady to type up, is that what happened?

Mr. KESSEL. It was typed by a young lady in the office.

Mr. HALLEY. But entirely your own composition?

Mr. KESSEL. Yes, sir.

Mr. HALLEY. Did your attorneys make any suggestions, changes?

Mr. KESSEL. Well, didn't make any suggestions, said it looked all right. I said, "What do you think of it?" They said, "I think it is all right; they can use it."

Mr. HALLEY. Is that substantially the circumstances?

Mr. FAULKNER. Pardon?

Mr. HALLEY. Is that substantially the fact?

Mr. FAULKNER. You're asking me?

Mr. HALLEY. Yes.

Mr. FAULKNER. You're putting me in a very difficult position, don't you think, under the laws of California?

Mr. HALLEY. I don't know.

Mr. FAULKNER. You do.

Senator KEFAUVER. Don't answer if you don't want to.

Mr. FAULKNER. I think we should clear this with you. Mr. Kessel—may I ask him a question?

Mr. HALLEY. Surely.

Mr. FAULKNER. Mr. Kessel, that particular paper is a paper where you made some suggestions to me and I dictated that paper, isn't that right?

Mr. KESSEL. That's right.

Mr. FAULKNER. Why didn't you tell the committee?

Senator TOBEY. This contravenes of the truth. In other words, the witness lied to us.

Mr. FAULKNER. He certainly hasn't made——

Senator TOBEY. Well, he has lied to us, what he has done. He has broken his oath he took a few moments ago. Why in hell didn't you come through clean? Before we get through with you you'll wish you had. I am damned sick of the kind of hypocrisy. Go ahead.

Mr. HALLEY. Continue with any other statement you want to make.

Mr. FAULKNER. Tell the committee how did you get mixed up, Mr. Kessel? I think that in a matter like this I have some standing in the court and committee. I told the witness—now, I read all these cases as to—that there was a necessity for him to make certain that he was claiming the privilege personally. As you know, you have to do that. Now then, as far as that statement is concerned, Mr. Kessel, did you mean to mislead the committee?

Mr. KESSEL. No.

Mr. FAULKNER. Why didn't you tell them——

Mr. KESSEL. I am sorry.

Senator KEFAUVER. Well, Mr. Kessel has been guilty of perjury. I don't know whether there is any use of going on with the hearing or not. He first said he wrote this himself and you made no changes in it.

Mr. FAULKNER. Well, he has cleared it up, Mr. Chairman.

Senator KEFAUVER. It appears the truth is—he came in and he says he wrote the whole thing.

Mr. FAULKNER. He has cleared it up. It isn't——

Senator KEFAUVER. Very well, proceed.

Mr. HALLEY. I would like to get this cleared up by him. What is the fact as you would state it, Mr. Kessel?

Mr. KESSEL. I am nervous when I came in here and I will admit that I am nervous and I never before had to appear to anything like this. And I would suggest why I brought this in here and I took it to my attorney and I had it written out.

Mr. HALLEY. What had you written out?

Mr. KESSEL. I suggested that he write this up for me.

Mr. FAULKNER. That isn't the fact.

Mr. HALLEY. Would you examine your witness to bring out that?



Mr. FAULKNER. Mr. Kessel, in the matter of your preparation for appearance before this committee you indicated to me the problem of the appearing before the committee?

Mr. KESSEL. That is right.

Mr. FAULKNER. Isn't it a fact that I explained to you very carefully that under the law any right to claim a constitutional right must be exercised by you and not by your lawyer and that any objection you make must be in the form that it is your personal objection, isn't that right?

Mr. KESSEL. That's right.

Mr. FAULKNER. All right. Now then, I prepared for you with your help that statement, isn't that right?

Mr. KESSEL. That's right.

Mr. FAULKNER. And it is only your statement in the sense that it is yours not mine. Now, you conveyed to the committee very definitely that you prepared that whole statement. That isn't a fact, you didn't prepare any part of it, isn't that correct?

Mr. KESSEL. That is correct.

Senator TOBEY. Mr. Witness, may I address you man to man? You come into this room, which is a subcommittee of the United States Senate, a committee of the United States Senate, duly formed and appointed, and we are here on duty. You were subpoenaed to come here before this committee, you sat down in the chair with counsel on either side and we asked you a few questions, and in kindness, man to man, and you gave us the answers after being sworn to tell the truth, the whole truth, and nothing but the truth, and you go along. It is evident to every one of the men sitting at this table you never prepared this paper, it had evidence of a legal mind. It was a deliberate falsehood, you perjured yourself before this committee, broke your oath to tell the truth. Counsel had to straighten it out and brings the truth out by his examination, put the cards on the table.

I should say to you, as a member of this committee, I don't know yet, when we get through, mean to examine you at length, ask you very pertinent questions, and you realize the penalty of breaking faith of this committee and perjuring yourself. It means a prison sentence beyond question. You realize that. Now, I say to you that so far as this committee is concerned, no matter what the questions are, that you answer them truthfully so help you God, or the consequences will be on you and this committee will take action so quickly you won't know what happened to you.

Mr. FAULKNER. May I say something? Mr. Cole will bear me out. In fairness to these two men, they were subpoenaed to appear before your committee on Saturday. If they had wanted to avoid appearing before your committee, as your committee knows, they could have come into this building Saturday morning, which had only three people with the circuit court, the elevator operator and myself, and could then have gone on our way. I told Mr. Cole, the advice of my clients, that we would come at a time that would be convenient, that they didn't have to do anything, and then we were resubpoenaed—

Senator TOBEY. Of course, Mr. Counsel, I suppose what you say is true.

Mr. FAULKNER. I mean, I can't say anything about Mr. Kessel, I know that he is here to answer every relevant question to which he does not object absolutely truthfully. I know that is certain.

Senator TOBEY. You will admit he made a poor beginning.

Mr. FAULKNER. He has made the worst beginning I have ever seen.

Senator TOBEY. It is amazing.

Mr. FAULKNER. I don't know why he did it, the man is—

Mr. HALLEY. Did you ever go to Los Angeles as a result of a threat to you and your family?

Mr. KESSEL. To my family, arrest?

Mr. HALLEY. A threat.

Mr. KESSEL. No.

Mr. FAULKNER. Please listen to the question.

Senator KEFAUVER. Get the question in your mind and then give your answer after you appreciate what the question is, Mr. Kessel.

Mr. HALLEY. Did you ever go to Los Angeles as a result of a threat which you received?

Mr. KESSEL. No, sir.

Mr. HALLEY. Do you know Mr. Robinson here?

Mr. KESSEL. This gentleman?

Mr. HALLEY. The man on my right.

Mr. KESSEL. I might have seen him, he looks familiar; I wouldn't say for sure

- Mr. HALLEY. Were you ever in Los Angeles police headquarters?
- Mr. KESSEL. Yes.
- Mr. HALLEY. Were you ever searched in the Los Angeles police headquarters?
- Mr. KESSEL. Nobody searched me.
- Mr. HALLEY. You were asked to produce whatever cash you had on you?
- Mr. KESSEL. That is right.
- Mr. HALLEY. You were found to have something over \$5,000 in your pocket, is that right?
- Mr. KESSEL. I hadn't that amount of money. I had \$3,100.
- Mr. HALLEY. \$3,100?
- Mr. KESSEL. That is right.
- Mr. HALLEY. Why were you in Los Angeles at that time?
- Mr. KESSEL. I had a deal with a fellow that is in moving pictures, I was going to ask him—he wanted me to come down and ask him—see him about a moving picture right.
- Mr. HALLEY. Who was that?
- Mr. KESSEL. Jack Schwartz.
- Mr. HALLEY. When was this trip to Los Angeles?
- Mr. KESSEL. I beg your pardon?
- Mr. HALLEY. When was this trip to Los Angeles?
- Mr. KESSEL. Oh, might have been about a year ago or so—I think a year ago. I don't remember the exact date.
- Mr. HALLEY. Well, was it this year?
- Mr. KESSEL. No, it wasn't this year, it wasn't this year.
- Mr. HALLEY. Was it a year ago?
- Mr. KESSEL. I think about a year ago.
- Mr. HALLEY. Did you make any statements to the Los Angeles police at that time?
- Mr. KESSEL. I made no statements to them at all outside of my telling them that I don't know what you want with me, and I had been to a restaurant and I came out and happened to have a young lady with me and I got picked up and I says, "What do you want from me?" Well, they said, "You will find out from headquarters."
- Mr. HALLEY. At that time were you with a man by the name of James Murray?
- Mr. KESSEL. I was with Jimmy Murray. He is a fight promoter and he went down to see, I think, another fight promoter by the name of Babe McCoy. They trade fighters, you know, they lease fighters out.
- Mr. HALLEY. Where did you meet Murray?
- Mr. KESSEL. Murray and I got on the plane.
- Mr. HALLEY. Where?
- Mr. KESSEL. In Oakland.
- Mr. HALLEY. And you flew directly to Los Angeles?
- Mr. KESSEL. That is right.
- Mr. HALLEY. And where did you go?
- Mr. KESSEL. And we went to the Chapman Park Hotel.
- Mr. HALLEY. Did you meet anybody at the Chapman Park?
- Mr. KESSEL. We met a lady.
- Mr. HALLEY. And did you go from there any place else?
- Mr. KESSEL. No, sir.
- Mr. HALLEY. Did you go to a night club or restaurant?
- Mr. KESSEL. We went to a restaurant to eat.
- Mr. HALLEY. When?
- Mr. FAULKNER. Please listen to the questions.
- Mr. HALLEY. Where did you go?
- Mr. KESSEL. We went to—it is a place like, something like Trader Vic's. The first time I have been there in my life. It is—
- Mr. FAULKNER. Could I help the witness?
- Mr. HALLEY. Yes.
- Mr. FAULKNER. You told me it was the Beachcomber.
- Mr. KESSEL. That is right; the Beachcomber.
- Mr. HALLEY. Who was with you at the table at the Beachcomber?
- Mr. KESSEL. Myself, Mr. Murray, and this lady.
- Mr. HALLEY. Did you talk to anyone else at the Beachcomber?
- Mr. KESSEL. I don't know anybody else.
- Mr. HALLEY. Did you talk to anyone else at the Chapman Park?
- Mr. KESSEL. Just registered there and we went in and washed our hands, had a couple of drinks, and went out there in a cab.

Mr. HALLEY. Did you spend any money in excess of \$1,000 in Los Angeles?

Mr. KESSEL. I don't think my bill was—\$15—\$18 at the Beachcomber.

Mr. HALLEY. Did you give anybody else any sums of money?

Mr. KESSEL. No, sir.

Mr. HALLEY. Now, you were arrested when you left the Beachcomber, or picked up by the police?

Mr. KESSEL. I wasn't arrested, just took me in a room.

Mr. HALLEY. Picked up by the police?

Mr. KESSEL. That is right.

Mr. HALLEY. And they asked you how much money you had with you?

Mr. KESSEL. Yes, I told them that was my own money. They said, let me see it. I showed it to them. They took everything, all my credentials and counted the money.

Mr. HALLEY. And how much was there, do you think?

Mr. KESSEL. About \$3,100.

Mr. HALLEY. Do you remember being questioned?

Mr. KESSEL. Beg your pardon? Yes.

Mr. HALLEY. Wasn't Mr. Robinson right there then?

Mr. KESSEL. I don't know. I wouldn't say for sure.

Mr. HALLEY. Did you say that you were in Los Angeles because somebody had called you up?

Mr. KESSEL. Nobody called me up, I had an engagement with a man, I was going to buy some moving-picture rights.

Mr. HALLEY. What was this man's name?

Mr. KESSEL. Jack Schwartz.

Mr. HALLEY. Did you see Schwartz?

Mr. KESSEL. I never saw him that night, they wouldn't let me see him. I said, "You call that man up and ask him if I am to meet him tomorrow morning." They called up at 12 o'clock at night and they came back, "Why, you have no date with that man." I said I have a date and to prove it to you I would like to see you tomorrow, put a man in my room, I will pay his salary, and let me go about my business and then I will go home. I have no reason to go outside of that—

Mr. HALLEY. When did you go home?

Mr. KESSEL. I went back at 2 o'clock.

Mr. HALLEY. Took you to the airport and see that you caught a plane?

Mr. KESSEL. Put me on a plane at 2 o'clock in the morning.

Mr. HALLEY. Did you make any statement to the police that you had been threatened?

Mr. KESSEL. No, sir; all I told them was that I was robbed once. I was held up in my house.

Mr. HALLEY. Did you make any statements to the press that you had been threatened?

Mr. KESSEL. I don't think there was any press in the house—

Mr. HALLEY. Well, did you tell anybody—

Mr. KESSEL. I didn't tell—

Mr. HALLEY. Let me finish the question.

Mr. KESSEL. Yes, sir.

Mr. HALLEY. Did you tell anybody that you had had a telephone call from someone you didn't know and that you had received numerous threats to bomb your home and harm your family?

Mr. KESSEL. Never told anybody.

Mr. HALLEY. You told that to nobody?

Mr. KESSEL. No.

Mr. HALLEY. You didn't tell that to any newspaper reporters?

Mr. KESSEL. I didn't tell to anybody that I had a threat or that I had a telephone, a mysterious call. I do get mysterious calls, I do get some, but I don't know who they are. I don't believe any—

Mr. HALLEY. Tell the committee about the mysterious calls.

Mr. KESSEL. Well, the man called up right after my robbery, called me up and said, "Better look out, better be careful." "Who is it?" and then they hang up.

Mr. HALLEY. When were you robbed?

Mr. KESSEL. Well, I had this house 3 years, and—I guess about 3 years ago.

Mr. HALLEY. What is your business?

Mr. KESSEL. I am appearing involuntarily under the compulsion of a subpoena served upon me by the committee. Under the circumstances surrounding my being subpoenaed as a witness before this committee I decline to answer the question

on the ground that my answer may incriminate me or may have the tendency to incriminate me. With respect to the committee I will continue to take that position in respect to any interrogation of me which will have that tendency.

Senator KEFAUVER. Just a minute. Now, the Chair orders you to answer that question, the Chair rules that the question is a proper one and orders you to answer it.

Mr. FAULKNER. Would I be permitted to be heard?

Senator KEFAUVER. Yes, in just a minute. Do you refuse to answer the question after being ordered by the Chair?

Mr. KESSEL. I decline to answer it for that reason, my answer may tend to incriminate me.

Senator KEFAUVER. In the future where you want to make your objection can we have this understanding: That we are just assuming that you will cite the same objections you have just read, you just say that "I object, I refuse to answer on the grounds that it might incriminate me." And the Chair will order you to answer the question and then if you refuse to answer it just say that you refuse to answer it.

Now, Mr. Counsel, you wanted to be heard?

Mr. FAULKNER. I want to call the committee's attention to this fact, which you are undoubtedly aware, you have operated, as you know, under a statute that gives you the power to compel a witness to answer. That is on one side. On the other side is the constitutional right of any witness to decline to answer if the answer might tend to incriminate him.

Senator WILEY. Under the State law or the Federal law?

Mr. FAULKNER. Federal law. Now, you have two sections of the Revised Statutes, section 859 and section 860. In the Supreme Court of the United States in *Counselman v. Hitchcock* held 860 was an invalid statute on the situation, that it gave the witness no protection. The Supreme Court recently in the Bryan case commented on the fact that you have the anomalous situation in Congress of having an immunity statute, which is a companion of section 860 and they have held the cases are replete that does not give the witness immunity. Now, there is the position of the witness and I have advised him that in my opinion that section 3486, the old section 634 of the United States Code, does not give the immunity, that I don't doubt at all that it was the intention of you gentlemen to give to the gentleman, but then you come into the series of cases and it doesn't make any difference what the view of the committee is, they have no power to enlarge that statute. Now, they have a proper immunity statute, but it has never been enacted in lieu of section 85—

Senator KEFAUVER. The committee rules that if he can refuse to answer a question that might incriminate him of a Federal offense, that does not apply to a State offense.

Mr. FAULKNER. We understand that clearly.

Senator KEFAUVER. The question as to what his business is, by any stretch of the imagination would not—I don't see how that would tend to convict him or give evidence against him of a Federal offense.

Mr. FAULKNER. Well, it could very well—

Senator KEFAUVER. Anyway, the Chair ruled that he be required to answer and he has refused. The record is made and let us go ahead to the next question.

Mr. HALLEY. Where do you live?

Mr. KESSEL. 283 St. James Drive.

Mr. HALLEY. Of what city?

Mr. KESSEL. Piedmont, Calif.

Mr. HALLEY. In what county is that?

Mr. KESSEL. That is Alameda County.

Mr. HALLEY. Were you ever in Contra Costa County?

Mr. KESSEL. I never lived there, I have been there, I have been in Contra Costa County.

Mr. HALLEY. You do not live there. Do you have any business there?

Mr. KESSEL. I decline to answer.

Senator KEFAUVER. The Chair directs you to answer and you refuse to answer, is that right?

Mr. FAULKNER. Yes.

Senator KEFAUVER. Let the record show that the Chair directs you to answer.

Mr. FAULKNER. Pay attention to the chairman, Mr. Kessel.

Senator KEFAUVER. The Chair directs you to answer that question, and do you refuse to answer?

Mr. KESSEL. I refuse to answer.



Mr. HALLEY. Do you know Mr. William Pechart?

Mr. KESSEL. Yes, I do.

Mr. HALLEY. How long have you known him?

Mr. KESSEL. About 15 years.

Mr. HALLEY. Have you ever had any business relationships with William Pechart?

Mr. KESSEL. I decline to answer.

Senator KEFAUVER. The Chair orders you to answer. You decline?

Mr. KESSEL. I decline.

Mr. FAULKNER. I understand that what he says when he says he declines that he states that fully?

Senator KEFAUVER. That is right.

Mr. HALLEY. Between the years 1935 and 1940, what was his business?

Mr. KESSEL. I decline to answer.

Senator KEFAUVER. The Chair orders you to answer; do you decline?

Mr. KESSEL. I decline.

Mr. HALLEY. Where were you born?

Mr. KESSEL. Rumania.

Mr. HALLEY. When?

Mr. KESSEL. October 31, 1894.

Mr. HALLEY. And when did you come to the United States?

Mr. KESSEL. That was when I was 3 years old.

Mr. HALLEY. And in what part of the United States did you first live?

Mr. KESSEL. New York.

Mr. HALLEY. How long did you live in New York?

Mr. KESSEL. I lived there until—

Senator WILEY. Louder, please.

Mr. KESSEL. I lived there until I was about 17 years old.

Mr. HALLEY. Did you attend the public schools in New York?

Mr. KESSEL. Yes, sir.

Mr. HALLEY. How far did you complete your education in New York?

Mr. KESSEL. Oh, I just went through the public school.

Mr. HALLEY. High school?

Mr. KESSEL. No.

Mr. HALLEY. Grammar school?

Mr. KESSEL. That is all.

Senator WILEY. Seventh and eighth?

Mr. KESSEL. Yes, seventh and eighth grades.

Mr. HALLEY. Are you a citizen of the United States?

Mr. KESSEL. Yes, sir.

Mr. HALLEY. When did you become a citizen?

Mr. KESSEL. I voted on my father's papers.

Senator WILEY. I don't hear you.

Mr. KESSEL. I voted on my father's papers.

Mr. HALLEY. You mean by that you became a citizen by virtue of your father's citizenship?

Mr. KESSEL. That's right.

Mr. HALLEY. What is your father's full name?

Mr. KESSEL. Nathan Kessel.

Mr. HALLEY. And do you know when and where he became a citizen?

Mr. KESSEL. He became a citizen in New York.

Mr. HALLEY. Do you know when?

Mr. KESSEL. I wouldn't—he's dead, and I wouldn't remember the date.

Mr. HALLEY. Do you remember the year?

Mr. KESSEL. I couldn't—I wouldn't remember the year.

Mr. HALLEY. Where were you living in New York when you think he became a citizen?

Mr. KESSEL. I lived on the East Side, down—I forget the street, it is 35 years ago.

Mr. HALLEY. The Borough of Manhattan?

Mr. KESSEL. That is right.

Mr. HALLEY. Have you ever had a passport, an American passport?

Mr. KESSEL. I had—you mean if I was abroad?

Mr. HALLEY. Yes.

Mr. KESSEL. Yes; I had a passport.

Mr. HALLEY. When did you have the passport?

Mr. KESSEL. Right after the First World War, I took a trip to Europe.

Mr. HALLEY. And in that passport did you state the basis of your American citizenship?

Mr. KESSEL. I did.

Mr. HALLEY. Have you had a passport since?

Mr. KESSEL. No, sir.

Mr. HALLEY. Where did you live when you obtained your American passport?

Mr. KESSEL. I lived in Oakland.

Mr. HALLEY. Oakland, Calif.?

Mr. KESSEL. That's right.

Mr. HALLEY. From New York did you proceed directly to Oakland?

Mr. KESSEL. Yes, sir.

Mr. HALLEY. With your family, or alone?

Mr. KESSEL. My mother and my brother and my sister.

Mr. HALLEY. And when you came to Oakland, did you work for a living?

Mr. KESSEL. Yes.

Mr. HALLEY. I believe you said you have never been arrested.

Mr. KESSEL. I have.

Mr. HALLEY. Oh, you have. And for what offenses have you been arrested?

Mr. KESSEL. For bookmaking, I guess.

Mr. HALLEY. Where was that?

Mr. KESSEL. When I was in Oakland.

Mr. HALLEY. Were you convicted?

Mr. KESSEL. I was fined, a misdemeanor.

Mr. HALLEY. Do you remember the year?

Mr. KESSEL. No, I don't.

Mr. HALLEY. Approximately?

Mr. KESSEL. I don't—

Mr. HALLEY. Was it before the Second World War?

Mr. KESSEL. Could have been.

Mr. HALLEY. Were you convicted of a crime on any other occasions?

Mr. FAULKNER. Well, I don't think—

Senator KEFAUVER. That is a proper question, you will be directed to answer it. The record on what he has been convicted of has been made.

Mr. KESSEL. I was arrested once for bootlegging.

Mr. HALLEY. Were you convicted?

Mr. KESSEL. Yes.

Mr. HALLEY. And what year was that?

Mr. KESSEL. That was during prohibition days.

Mr. HALLEY. Were you fined or imprisoned?

Mr. KESSEL. No; fined, just fined.

Mr. HALLEY. Were you convicted of any other offense?

Mr. KESSEL. That is all.

Mr. HALLEY. Just two convictions. Were you ever arrested without being convicted?

Mr. KESSEL. The California—that Los Angeles deal, I wasn't arrested there and they picked me up, but they let me go home.

Mr. HALLEY. Have you been on trial for any offense within the last year?

Mr. KESSEL. Have I a right to decline?

Senator KEFAUVER. You have no right to decline, but if you decline, I will rule on the matter.

Mr. KESSEL. I decline then.

Senator KEFAUVER. You are ordered to answer the question; you refuse to answer?

Mr. KESSEL. I refuse.

Senator TOBEY. I might add, Mr. Chairman, the witness is so foolish. All these things will come out, we have ways of getting this information. Why not deal as man to man and put the cards on the table? Mr. Counsel, if you see fit to advise your client—that is only proper.

Mr. FAULKNER. I will be very frank with the committee. If it wasn't for the fact that the whole matter of the committee is going to go to every prosecuting agent that there is for someone to use a magnifying glass to see whether they can indict these men for tax frauds—that is a situation which you haven't created, but exists.

Senator TOBEY. You know we will give this information, or have the power to give this information to the proper authorities.

Mr. FAULKNER. May I confer with the witness? I don't think he understood the question, that is all.

(Counsel and witness conferring.)

Senator KEFAUVER. Very well, he has refused to answer?

Mr. KESSEL. I refuse to answer.

Senator KEFAUVER. Next question.

Mr. HALLEY. Now, let us make sure you understand. The question is simply whether you have been on trial during the last year for any offense in Contra Costa County?

Mr. KESSEL. I decline to answer for the reason that I might——

Senator KEFAUVER. That is all, you decline. We understand the reason. The Chair orders you to answer and you refuse to answer.

Mr. HALLEY. Have you ever been in Contra Costa County?

Mr. KESSEL. Yes, I have.

Mr. HALLEY. Have you ever been in the city of San Pablo?

Mr. KESSEL. I decline to answer.

Senator KEFAUVER. The Chair orders you to answer; do you refuse?

Mr. KESSEL. I refuse.

Mr. HALLEY. Have you ever been in the city of Albany, or the town of Albany, Contra Costa County?

Mr. KESSEL. I don't think Albany is in Contra Costa County.

Mr. HALLEY. Have you ever been in the town of Albany, Calif.?

Mr. KESSEL. No, sir.

Mr. HALLEY. Have you ever been in the town of El Cerrito, Calif.?

Mr. KESSEL. I decline to answer.

Senator KEFAUVER. The Chair orders you to answer; you refuse? Let the record show you did.

Mr. HALLEY. Have you ever been in the town of Richmond, Calif.?

Mr. KESSEL. I refuse to answer—I decline.

Senator KEFAUVER. What is the answer?

Mr. KESSEL. I decline to answer.

Senator KEFAUVER. The Chair orders you to answer. You decline to answer upon order of the chair?

Mr. KESSEL. I do, I decline.

Mr. HALLEY. Have you ever been in the town of Martinez, Calif.?

Mr. KESSEL. I decline to answer.

Senator KEFAUVER. The Chair orders you to answer.

Mr. KESSEL. I decline.

Mr. HALLEY. Have you ever been arrested for bookmaking?

Mr. KESSEL. I decline to answer the question.

Senator KEFAUVER. The committee orders you to answer it.

Mr. KESSEL. I decline.

Mr. HALLEY. Do you know of a place called the Wagon Wheel?

Mr. KESSEL. I decline to answer.

Senator KEFAUVER. The Chair orders you to answer.

Mr. KESSEL. I decline to answer.

Mr. HALLEY. Have you ever been in the establishment known as the Wagon Wheel located in Contra Costa County, Calif.?

Mr. KESSEL. I decline to answer the question.

Senator KEFAUVER. The Chair orders you to answer.

Mr. KESSEL. I decline.

Mr. HALLEY. Have you ever been in the Wanda Grill, San Pablo, Calif.?

Mr. KESSEL. I decline to answer.

Senator KEFAUVER. The Chair orders you to answer.

Mr. KESSEL. I decline to answer for the reason——

Mr. HALLEY. Have you ever been in the 49 Club?

Mr. KESSEL. I decline to answer that.

Mr. HALLEY. Do you know what the 49 Club is?

Mr. KESSEL. I decline to answer.

Senator KEFAUVER. I think we will get along better, let the record show, if it is agreeable to the witness and to his counsel, when he declines to answer, unless the Chair states otherwise, that the committee and its chairman will consider that it is a proper question and he will be ordered to answer and that he in turn refuses to obey the order of the Chair.

Mr. FAULKNER. That is quite ——

Senator KEFAUVER. But if the chairman of the committee finds any question counsel should ask might violate the rights of the witness, the chairman will have the question withdrawn. I think we will save time.

Mr. FAULKNER. That is right.

Mr. HALLEY. Do you know Sheriff James?

Senator KEFAUVER. That arrangement is satisfactory with Mr. Kessel and satisfactory with his counsel, is that correct?

Mr. FAULKNER. That is correct. You understand that, Mr. Kessel? In other words, the chairman has indicated that where you have declined to answer, that for the purposes of this record that it will be considered that the chairman has directed you on behalf of the committee to answer and that you have declined, so that you don't have to repeat all of your full objection and the Chair in turn doesn't have to direct you specifically to answer. Do you follow that?

Mr. KESSEL. Yes.

Mr. FAULKNER. And that is agreeable to you?

Mr. KESSEL. Yes.

Senator KEFAUVER. Did he say yes it was agreeable?

Mr. KESSEL. Yes.

Mr. FAULKNER. Speak up a little louder because it is hard even for me to hear you.

Mr. HALLEY. Do you know Sheriff James long?

Mr. KESSEL. I decline to answer.

Mr. HALLEY. Have you ever been at 313 San Pablo Avenue, El Cerrito, Calif.?

Mr. KESSEL. I decline to answer.

Mr. HALLEY. Have you ever been on San Pablo Avenue, El Cerrito, Calif.?

Mr. KESSEL. I decline to answer the question.

Mr. HALLEY. Do you know Carl Neilus, now deceased?

Mr. KESSEL. I decline to answer.

Mr. HALLEY. Did you have any business with Carl Neilus, now deceased?

Mr. KESSEL. I decline to answer that.

Mr. HALLEY. Now, when you told the committee that you had prepared the statement which it now appears your counsel dictated, was it because that your counsel had made it clear to you that you had to personally raise any objection based on your constitutional privilege, is that what you had in mind?

Mr. KESSEL. Will you please repeat it?

Mr. HALLEY. You must have had some reason for telling the committee that you personally prepared the document that you read.

Mr. KESSEL. I was confused with the—I was confused.

Mr. HALLEY. Well, you certainly weren't confused enough to say you had written out a long statement which you never wrote; you wouldn't call that confusion, would you, sir?

Mr. FAULKNER. Mr. Kessel, speak up. The committee is giving you the opportunity to explain your position.

Mr. KESSEL. I am sorry that I made that statement and I know I shouldn't have said it.

Mr. HALLEY. When you said it you knew that you had not made—written that paper out, did you not?

Mr. KESSEL. I was confused about the paper.

Mr. HALLEY. Well, sir, I think when you say you were confused you are still perjuring yourself, because it is perfectly obvious that confusion couldn't result, you did something you didn't do. When you testified did you not well know that you had not written out in longhand the contents of the paper which you read before this committee?

Mr. KESSEL. I didn't.

Senator KEFAUVER. You understand the question? Answer it. Read the question.

(Question read.)

Senator KEFAUVER. Do you understand the question, Mr. Kessel?

Mr. KESSEL. I refused already.

Mr. HALLEY. Let me ask the question again, slowly and quietly. Didn't you know in your own mind that you had not written out any paper in longhand when you testified before this committee that you had done so?

Mr. KESSEL. Yes, I did.

Mr. HALLEY. Now, will you tell the committee why you did it?

Mr. KESSEL. I don't know just why I said it. I just was confused, I didn't know.

Mr. HALLEY. Did you have the impression that to preserve your rights it had to be something you made up yourself?

Mr. KESSEL. Well, it could have been.

Mr. HALLEY. I am sorry, I didn't hear you.

Mr. KESSEL. I try to preserve my rights. I am sorry if I said the wrong thing.



Mr. HALLEY. The question is why you said the wrong thing.

Mr. KESSEL. I don't know. I just was confused about the whole thing.

Mr. HALLEY. Well, when you said you knew it wasn't so, didn't you?

Mr. KESSEL. I spoke before I thought.

Mr. HALLEY. You spoke and said you wrote something out on paper that you had told him?

Mr. KESSEL. I did have some little things I wrote on the paper.

Mr. HALLEY. But they weren't the things you read before this committee, is that right?

Mr. KESSEL. They were a few things, but not all.

Mr. HALLEY. Well, not any of it, according to your attorney. He says he dictated it.

Mr. KESSEL. A few things that I wrote from the newspaper and I read in the newspaper I wrote down.

Mr. HALLEY. But they weren't in the statement that was read, were they?

Mr. KESSEL. Not all; no.

Mr. HALLEY. Were they any part of it, now?

Mr. KESSEL. Those dates of the papers and copies that I had, on the copy.

Mr. HALLEY. You mean that you had some notes with the dates of the newspapers?

Mr. KESSEL. Yes; copies.

Mr. HALLEY. But you are not trying again to convey a misimpression, are you?

Mr. KESSEL. No; I am not trying—trying to tell you the truth.

Mr. HALLEY. The truth is what you had on your scraps of paper wasn't the statement that was read, isn't that the truth?

Mr. KESSEL. I had a few words on there, but they don't seem to be there, that is all.

Mr. HALLEY. In other words, you sat and heard your counsel dictate the statement which you read, is that correct?

Mr. KESSEL. I wasn't there when he dictated it.

Mr. HALLEY. You weren't even there. Did you give his stenographer papers or notes to type?

Mr. KESSEL. No, I didn't.

Mr. HALLEY. And when you testified before this committee that you had done so, did you not well know that you had not done so?

Mr. KESSEL. Well, I was confused about the whole thing.

Mr. HALLEY. How could you become confused enough to make up something that had not happened?

Mr. KESSEL. I was just confused.

Mr. HALLEY. You do yourself no good by adding perjury to perjury, sir.

Mr. KESSEL. I know that.

Mr. HALLEY. Now, the question is when you said that you gave the stenographer certain typewritten pages to type—

Senator KEFAUVER. Certain pencil papers.

Mr. HALLEY. Certain papers to type, did you not know in your own mind when you said it that it was not true?

Mr. KESSEL. I lied about it.

Mr. HALLEY. And you knew you were lying; did you not?

Mr. KESSEL. No, I was confused about it, I was just confused.

Mr. HALLEY. What do you mean by confused? Didn't you know in your own mind that you had not handed the stenographer pages to type?

Mr. KESSEL. Well, I guess it is called a lie, I told a lie.

Mr. HALLEY. I have no other questions.

Senator KEFAUVER. Senator Tobey?

Senator TOBEY. How far is this Contra Costa County from where we are now? Does it adjoin San Francisco?

Mr. ROBINSON. Across the Bay.

Senator TOBEY. Where does the line come in?

Mr. FAULKNER. It is across the Bay.

Senator TOBEY. Berkeley?

Mr. ROBINSON. It is the county adjoining Alameda County on the north.

Senator TOBEY. I see. And this club where these operations are carried on that is under discussion now, is that accessible to us if we went over, be allowed to go in?

Mr. KESSEL. I refuse—I decline to answer the question.

Senator KEFAUVER. Is it accessible so we can go out and see it?

Mr. KESSEL. I have no keys to any club.

Senator KEFAUVER. What?

Mr. KESSEL. I have no keys to any club.

Senator TOBEY. I didn't say anything about keys. I asked you this club, this gambling operation going on out there, that we are investigating now, and what you are being examined, part of your operations, is it open to us to walk out there, be accessible to us if we went out there tomorrow?

Mr. KESSEL. I decline to answer that question.

Senator TOBEY. Will you take us out there in a taxicab?

Mr. KESSEL. I decline to answer the question.

Senator TOBEY. Can't you tell me whether you would or you wouldn't?

Mr. KESSEL. I still have to decline to answer.

Senator TOBEY. What was your income last year, the last return you filed with the Federal Government?

Mr. KESSEL. I don't know.

Senator TOBEY. Can't hear you.

Mr. KESSEL. I don't exactly know.

Senator TOBEY. You must know what your return to the Federal Government was?

Mr. KESSEL. I decline to answer that.

Senator TOBEY. Who prepares your income-tax returns?

Mr. KESSEL. I decline to answer that.

Senator TOBEY. You do it yourself, alone?

Mr. KESSEL. I decline to answer.

Senator TOBEY. You did file a return last year, didn't you?

Mr. KESSEL. I decline to answer.

Senator TOBEY. Have you ever been checked up by the Internal Revenue Department on any of your returns for the last 10 years?

Mr. KESSEL. I decline to answer the question.

Senator TOBEY. Have you had any penalties assessed you by the Government for failure to make proper returns?

Mr. KESSEL. I decline to answer that question.

Senator TOBEY. Have you any children?

Mr. KESSEL. No, sir.

Senator TOBEY. Going to decline to answer that?

Mr. KESSEL. I have no children.

Senator TOBEY. Married?

Mr. KESSEL. Yes, sir.

Senator TOBEY. Your wife living?

Mr. KESSEL. Yes, sir.

Senator TOBEY. She live with you?

Mr. KESSEL. Yes, sir.

Senator TOBEY. She file a separate return?

Mr. KESSEL. I decline to answer that question.

Senator TOBEY. What is your net worth today?

Mr. KESSEL. I decline to answer the question.

Senator TOBEY. How many banks do you have money in?

Mr. KESSEL. I decline to answer the question.

Senator KEFAUVER. Senator WILEY?

Senator WILEY. Where is your home?

Mr. KESSEL. 283 St. James Drive.

Senator WILEY. In what town?

Mr. KESSEL. Piedmont.

Senator WILEY. Is that—what town is that in?

Mr. FAULKNER. That is a town adjoining Oakland.

Senator WILEY. Is that in Contra Costa County?

Mr. KESSEL. Alameda County.

Senator WILEY. Where?

Mr. KESSEL. Alameda County.

Senator WILEY. Alameda County. And your partner in your operations, what is his name?

Mr. KESSEL. I decline to answer the question.

Senator WILEY. Do you know William Pechart?

Mr. KESSEL. I decline to answer the question.

Senator WILEY. Do you know the district attorney of that county?

Mr. KESSEL. I decline to answer the question.

Senator WILEY. Do you know the sheriff of that county?

Mr. KESSEL. I decline to answer.

Senator WILEY. Now, something was said about your citizenship and you said that you claimed citizenship due to the fact that your father took out citizenship papers.

Mr. KESSEL. That's right.

Senator WILEY. And you don't remember the year that he took out those citizenship papers? Do you remember how old you were at the time?

Mr. KESSEL. I wouldn't know; I might have been 6, 7, 8 years old; I wouldn't know for sure. I don't know how long it takes for them to become a citizen.

Senator WILEY. How old were you when you came to this country?

Mr. KESSEL. About 3; 3, 4 years.

Senator WILEY. Three or four years; and you think your father took out papers when you got to be six or seven?

Mr. KESSEL. Maybe 6 or 7 years later; I wouldn't know for sure.

Senator WILEY. Do you know Mickey Cohen?

Mr. KESSEL. I have heard of the man.

Senator WILEY. Do you know him personally?

Mr. KESSEL. Met him one time in my life.

Senator WILEY. Ever have any dealings with him?

Mr. KESSEL. Never had any dealings with him whatsoever.

Senator WILEY. Did he attempt to muscle in on any of your matters?

Mr. KESSEL. Never asked me any questions pertaining to those things.

Senator WILEY. Any of his gang ever attempt to muscle in?

Mr. KESSEL. Nobody has bothered me.

Senator WILEY. Did you know Jimmy Ragasa(?)?

Mr. KESSEL. I don't know him.

Senator WILEY. Did you know him personally?

Mr. KESSEL. Never heard of him.

Senator WILEY. Or Frank Nicolai?

Mr. KESSEL. Never knew him.

Senator WILEY. Or Dave Ogle (?)?

Mr. KESSEL. Don't know any of these people.

Senator WILEY. Now, did you have any understanding with one William Pechart as to what you would or would not answer?

Mr. KESSEL. I have no understanding—I decline to answer.

Senator WILEY. Decline to answer that—you understand the question?

Mr. KESSEL. I decline to answer the question.

Senator WILEY. Well, was there a partnership arrangement between you and William Pechart?

Mr. KESSEL. I decline to answer the question.

Senator WILEY. No need of my asking any further questions. Did you ever hear of Frank Nicolai and Dave Ogle, now?

Mr. KESSEL. I don't know these people.

Senator WILEY. Never heard of them?

Mr. KESSEL. I have lived here 35 years; I don't know those kind of people.

Mr. ROBINSON. I have two questions.

Senator KEFAUVER. All right, Mr. Robinson.

Mr. ROBINSON. You make a practice of reading the newspapers?

Mr. KESSEL. I do read them.

Mr. ROBINSON. Have you ever followed an account involving the murder of a police officer in San Jose in which the offender stated that his troubles started with the Wagon Wheel; have you read about that?

Mr. KESSEL. I did read that; saw it in the paper.

Mr. ROBINSON. Have you also—

Mr. KESSEL. I didn't see—I just read one sheet there; I didn't see anything about any Wagon Wheel. I know there was a murder and just read part of it.

Mr. ROBINSON. Have you read newspaper accounts of elderly ladies that have gotten into check difficulties as a result of trouble at the Wagon Wheel, gambling losses?

Mr. KESSEL. No, I haven't.

Mr. ROBINSON. As I recall your testimony, Mr. Kessel, upon arrival in Los Angeles you went to the Chapman Park Hotel?

Mr. KESSEL. That is right.

Mr. ROBINSON. And from there in company with James Murray you went to the Beachcomber for dinner?

Mr. KESSEL. That is right.

Mr. ROBINSON. Upon coming out of the Beachcomber you were picked up by the Los Angeles police?

Mr. KESSEL. That is right.

Mr. ROBINSON. Now, isn't it a fact, Mr. Kessel, that with the Los Angeles police you went back to the Chapman Park Hotel?

Mr. KESSEL. That is right.

Mr. ROBINSON. And had difficulty arousing Mr. James Murray?

Mr. KESSEL. I didn't have any difficulty arousing him. He had been drinking and he took a cab and went home and when we got back, he was there. I believe he was there, otherwise he might have been in some other department of the police; I wouldn't know.

Mr. ROBINSON. Isn't it a fact, also, that while you were in police headquarters Mr. Schwartz was communicated with telephonically?

Mr. KESSEL. I asked—

Mr. ROBINSON. Denied he had any appointment with you?

Mr. KESSEL. That is what the police told me, but he told me he didn't deny it. I called him back—I gave a telephone number. I says to call this man up, I have a date with him tomorrow morning. I couldn't see him at night, but I did have a date with him tomorrow, and I was going out to his studio.

Mr. ROBINSON. Was the young lady's name Paula Hill?

Mr. KESSEL. That's right.

Mr. HALLEY. Any relation to Virginia Hill?

Mr. KESSEL. I don't know, just happened to meet her, and the only reason I did go home was because of this woman in the party; nothing wrong. I told him, I says, I will go home providing that you don't tell the newspapers that there was a woman in my company, in our company, and I would have a lot of answers to make at home, and nothing—just had a drink and had something to eat and came back in a cab. And they promised me they wouldn't divulge anybody's name. I said, "All right, I will go home on the plane."

Senator KEFAUVER. Anything else?

Senator TOBEY. Just a second. I would like to move, Mr. Chairman, the witness be cited by the committee for contempt brought on the grounds of refusal to answer or making false answers and same to be transmitted to the proper agencies for action.

Senator KEFAUVER. The committee sitting in executive session—the record will show that Senator Tobey has moved the witness be cited for contempt of the Senate for refusing to answer questions submitted to him, and also that the committee certify the record to the United States district attorney for this district the recommendation that he be prosecuted for perjury. Second to the motion?

Mr. HALLEY. And for contempt of the committee.

Senator WILEY. I will second the motion.

Senator KEFAUVER. Motion seconded by Senator Wiley. All in favor let it be known by saying "Aye."

Let the record show the three Senators present, Senators Tobey, Wiley, and Kefauver, voted for the motion.

Mr. HALLEY. May the record show this is a duly constituted subcommittee created by the chairman pursuant to authority voted to him at a committee meeting which took place on November 15, 1950.

Senator KEFAUVER. The record will show that and does show it that a quorum of the committee, of the full committee is present for the purpose of acting upon Senator Tobey's motion.

At this point we will put in the record a letter of October 16, 1950, which should be made a part of the record, from the El Cerrito group committee.

(The letter of October 16, 1950, from the El Cerrito group committee, reads as follows:)

OCTOBER 16, 1950.

SENATE CRIME INVESTIGATING COMMITTEE,  
Washington, D. C.

(Attention Senator Estes Kefauver.)

DEAR SENATOR KEFAUVER: Our group of citizens and taxpayers have followed your activities and want to commend you and your committee for the fine job you have done so far. We note that your actions thus far have been confined to gangs and racketeers in the Eastern States, while here in California we now have close on to 11,000,000 people. The point is that the county of Contra Costa in which we live should have someone come here for a thorough investigation of the rackets and the racketeers that control this whole county. The head racketeers of this county and several others—namely, Solano, Yolo, and many others—are W. M. Pechart and Dave Kessel.



This mobster Pechart is the political and racket boss of this whole section and has operated here unmolested for a period of more than 10 years. We are informed from good authority that he spent a small fortune during the last election to get his crooked puppets in. He had the crew from his bookies, lottery joints, slot machine henchmen, and much outside goon squad putting up signs and doing any and all dirt that was necessary for them to get back in office. This gang has and is at present controlling all the bookie service exclusively in the above-mentioned counties, as well as many other dives in Alameda County and Nevada and Mexico. It is no secret in this county about his being the boss because he boasts to everyone about how his attorneys can protect him. The sheriff has assigned a man, Ray Stoffels, to look after his end and the D. A. has given him a man by the name of Marcollo to look after his end. If Pechart is brought in it is suggested that his books and bookkeepers and Mel, his head henchman, be subpoenaed to the hearing. Pechart has told certain ones that he had it straight that your committee was coming here and he had advance tip-off so that he would not be available. This gangster had made millions from rackets without a single arrest in 8 years. Our men have checked his \$225,000 plush headquarters at 317 San Pablo Avenue, El Cerrito, Calif., and have found it to be lighted and wired around the clock as well as guards with machine alarms and guns. We have not paragraphed this letter due to lack of space. We would like to disclose ourselves but for safety reasons we deem it best not, due to his tie-up in San Pablo. Pinole, Martinez, Pittsburg, Brentwood, Walnut Creek, Orinda, and all of the unincorporated sections of our county.

Yours for action,

EL CERRITO GROUP COMMITTEE.

Senator KEFAUVER. Very bad, you know, that people come here from other countries to be American citizens and they have such little respect for the United States Senate as to perjure themselves before a Senate committee and to refuse to answer obviously fair questions where we are trying to seek out information. I think I can assure you, Mr. Kessel, that you are not going to gain anything by this action today. That will be all.

○

